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July 20, 1999

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, SW, Room TWB-204
Washington, DC 20554

Re: Notice of Written Ex Parte
In the Matter of Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations from Ameritech Corporation, Transferor, to SBC Communications, Inc., Transferee,
CC Docket No. 98-141

Dear Ms. Salas:

This is to inform you that today a written ex parte in the form of a letter to Chairman William E. Kennard was made by James W. Cicconi, AT&T, H. Russell Frisby, CompTel, Jonathan B. Sallet, MCIWorldCom Inc., Leon M. Kestenbaum, Sprint Communications Company, and Ernest B. Kelly III, Telecommunications Resellers Association. A copy of that letter is attached.

Two copies of this Notice are being submitted to the Secretary of the FCC in accordance with Section 1.1206 of the Commission's rules.

Sincerely,

July 20, 1999

Chairman William E. Kennard
Federal Communications Commission
445 Twelfth Street, SW, Room 8B201
Washington, D.C. 20554

Re: In the Matter of Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations from Ameritech Corporation, Transferor, to SBC Communications, Inc., Transferee, CC Docket No. 98-141

Dear Chairman Kennard:

Yesterday, we filed separate comments opposing the July 1 SBC/Ameritech proposed merger commitments. While the comments set forth each of our concerns in detail, this joint letter underscores our grave misgivings with the proposed commitments, and the deleterious impact they will have on the letter and spirit of the Telecommunications Act of 1996. We urge the Commission to reject this merger, or attempt to fashion conditions that compensate for the anticompetitive effects of the merger, based on the full record in this proceeding. In all events, the Commission should discard the carefully crafted, sleeves-off-the-monopoly-vest commitments proposed by SBC and Ameritech.

The proposed commitments would harm, not help, competition. For example, the so-called "promotional" offerings promised by the conditions – UNE loop rates, resale rates, and "UNE platform" – create a system for rationing competition. The resale and "platform" offers limit all competitors together to serving an extraordinarily few customers - less than 8 percent of residential lines in each State. SBC and Ameritech have crafted these provisions to deny CLECs combinations of network elements to serve anyone but a limited number of customers. Moreover, SBC and Ameritech would restrict all of these "promotional" offerings to limited classes of customers, limited service types, and limited time periods. The offerings could not be used to provide advanced services, the "platform" offering could not be used to provide access services, the loop offering could not be used in combination with an SBC or Ameritech switch, and none of the offerings could be used to serve business customers.

These limits, set by the incumbent monopoly carriers, discriminate among carriers and against customers, and allow the incumbents themselves to keep their hands firmly on the throttle of any "competition" they choose to permit. For the vast majority of residential customers, and prospective new entrants, the proposals hold no promise except that of continued dominance by the incumbent provider.

As troubling is the affirmative damage that can be wrought by Commission endorsement of these commitments. Nothing will prevent SBC, Ameritech, and other ILECs from using these commitments in their on-going efforts to lessen their market-opening obligations. Indeed, Ameritech is already touting the proposed commitments as a pre-judgment of local competition and Section 271 issues. On June 28, Ameritech sought reconsideration of a set of Michigan performance measures on the basis that the state-mandated measures exceed the standards that Ameritech itself crafted in, and believes will be established by, the proposed condition language. Ameritech asserted in Michigan that "in the near future, the FCC is likely to adopt a set of performance measurements that may be part of the approval process involving the proposed SBC/Ameritech merger," that Michigan should seek "uniformity" rather than maintain more demanding requirements, and that conflicting requirements "will not survive FCC action . . .".[1]

In this regard, the notion that SBC and Ameritech can "negotiate" the proposed commitments, draft the very document that defines those commitments, and then impart to that draft the gloss of FCC "approval" to avoid or overturn more meaningful standards under the Act or state proceedings should be rejected out of hand. Moreover, the SBC/Ameritech document is replete with qualifications and ambiguities that invite confusion, misinterpretation, and litigation, even where they do not demonstrably conflict with the Act's plain language and intent. This situation is familiar to CLECs that have been forced to haggle over and litigate similar clauses with the incumbents throughout the Nation for the past four years. That experience, underscored by the notable lack of success in resolving the ongoing disputes over Bell Atlantic's noncompliance with its own merger commitments, confirms that any conditions on this merger must be of the Commission's own making, based on its public interest determinations on an open record.

It is for these reasons and those set forth in our comments that we believe these conditions will accomplish nothing except to hinder CLECs, hurt consumers, divert scarce Commission resources, and confuse State commissions and the industry on the appropriate

[1] *See* Ameritech Michigan's Petition for Rehearing or Clarification, Case No. U-11830, *Ameritech Michigan's submission on performance measurements, benchmarks, and reporting in compliance with the October 2, 1998 Order in MPSC Case No. U-11654* (filed June 28, 1999), pp. 4 - 5.

standards to be employed in fostering local competition and assessing applications for Section 271 relief.

Sincerely,

James W. Cicconi
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for Law and Government Affairs
AT&T

H. Russell Frisby
President
CompTel

Jonathan B. Sallet
Vice President, Policy and Governmental Affairs
MCIWorldCom Inc.

Leon M. Kestenbaum
Vice President – Federal
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Sprint Communications Company

Ernest B. Kelly III
President
Telecommunications Resellers Association

cc: Commissioner Ness
Commissioner Furchtgott-Roth
Commissioner Powell
Commissioner Tristani